

Appl. No. 10/644,111
Amdt. Dated October 14, 2005
Reply to Office Action dated June 15, 2005

REMARKS

In the Office Action Summary, the U.S. Patent Examiner has indicated that Claim Nos. 1 – 24 are pending in the application. Claim Nos. 1 – 8 and 21 – 24 have been allowed; Claim Nos. 9 – 14 and 16 – 20 currently stand rejected; and Claim No. 15 has been objected to. The U.S. Patent Examiner has made no statement regarding either the Specification or the Drawings filed on 20 August 2003.

With regard to the Detailed Action, the U.S. Patent Examiner has indicated his reasons for rejecting Claim Nos. 9, 10, 13, 14, 16, 19, and 20 in Paragraph Nos. 1 and 2. Specifically, Claim Nos. 9, 10, 13, 14, 16, 19, and 20 have been rejected under 35 U.S.C. 102(e) as being anticipated by United States Patent Application Publication No. 2004/0037429, authored by Candioly et al. and filed in the United States Patent and Trademark Office on August 23, 2002.

With regard to rejected independent Claim Nos. 9 and 16, the U.S. Patent Examiner states, as follows: “Candioly discloses: a fluid tight (paragraph 0025) hand held sound sending device and shaped for being grasped by a hand and having stethoscope head for sensing auscultatory sounds (fig. 1) and a microphone for sensing sound communications (12); a transmitter within the device for transmitting sounds sensed by the device (claim 1); a receiver for receiving transmissions from the transmitter (claim 1); and an ear piece for converting the received transmissions into audible sound (paragraph 0018).”

Applicant takes note of the U.S. Patent Examiner's statements and references to certain portions of the Candioly et al. disclosure. Applicant is of the opinion that the Candioly et al. disclosure is lacking in sufficient detail to properly provide a reasonable

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basis upon which to reject certain claims as found in this application. For example, Figure No. 1 (the only figure) of the Candioty et al. disclosure clearly depicts a stethoscope device with cords. Claim Nos. 9 and 16 of the present application clearly call for a cordless stethoscope. Candioty et al. have not provided in their descriptions how the ambient noise reducing stethoscope of their intellect can be made to function without the use of cords or other external sound carrying or enabling circuitry. Further, the ambient noise-reducing aspects of the Candioty et al. disclosure comprise certain components not essential to the operation of the present invention. The Candioty et al. ambient noise reducing stethoscope is not the equivalent of a hazardous material environment stethoscope, although certain ambient noise is surely present in hazardous material environments and certain hazardous materials may be present in scenarios having a great deal of ambient noise. The form and function of each device (i.e. the Candioty et al. stethoscope and the cordless stethoscope of the present application) is different and thus Candioty et al. may not be said to properly anticipate the cordless stethoscope of the present disclosure.

However, from a further inspection of Claim Nos. 9 and 16 of the present application, Applicant is of the further opinion that the subject matter that Applicant regards as his invention could be more properly claimed in more distinct, precise terms. Thus, in view of the Candioty et al. teachings (as well as Moore), Applicant has elected to cancel the rejected and objectionable claims of record and submit certain newly drafted claims, including independent Claim No. 25 which incorporates the subject matter of dependent Claim Nos. 15 (currently objectionable, but allowable if rewritten to include

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the subject matter as presented in the base independent claim and all intervening claims),
12 and 11 as well as independent base Claim No. 9.

Further, newly drafted Claim Nos. 26 – 34 now appear in the application. New independent Claim No. 26 attempts to incorporate the subject matter of canceled independent Claim No. 9; new dependent Claim No. 27 attempts to incorporate the subject matter of canceled Claim No. 10; new dependent Claim No. 28 attempts to incorporate the subject matter of canceled Claim Nos. 11 and 12; new dependent Claim No. 29 attempts to incorporate the subject matter of canceled Claim No. 13; and new dependent Claim No. 30 attempts to incorporate the subject matter of canceled Claim No. 14. Further, new dependent Claim No. 31 attempts to incorporate the subject matter of canceled Claim No. 16; new dependent Claim No. 32 attempts to incorporate the subject matter of canceled Claim Nos. 17 and 18; new dependent Claim No. 33 attempts to incorporate the subject matter of canceled Claim No. 19; and new dependent Claim No. 34 attempts to incorporate the subject matter of canceled Claim No. 20.

CONCLUSIONS:

Patent applicants as well as U.S. Patent Examiners carry the burden of trying to ascertain what scope and degree of (patent) protection is available to an inventor, if any. Applicant is unadvised as to why the last Office Action in the Candioty et al. application went unanswered resulting in its current state of abandonment. Perhaps, the U.S. Patent Examiner and/or the Patent Applicant(s) were of the opinion that the application did not present a novel, unobvious, or sufficiently detailed writing so as to warrant a U.S. Letters Patent. For whatever reason, the Candioty et al. application now stands abandoned.


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In an effort to more properly claim the subject matter that Applicant regards as his invention, Applicant has elected to cancel the rejected or objectionable claims and submit certain newly drafted claims with this Amendment. As a means to provide certain antecedent support for the new claims, certain specification summaries have also been newly drafted and incorporated into the specification by way of amendment(s). It is believed that no "new matter" has been presented in this amendment as the Applicant has merely rephrased or reworded certain notions with language perhaps deemed more precise for claiming purposes.

It is further believed that this patent application is now in condition for allowance, and such action is kindly requested. If, after a review of this Amendment, issues remain which may be resolved by a telephone interview, the U.S. Patent Examiner is cordially invited to call the Applicants' undersigned attorney. If attempts to reach the undersigned attorney are not successful, please be advised that Christopher J. Scott, Registration No. 48,647, may also be contacted with regard to this matter. Mr. Scott has been in regular communication with the undersigned regarding the Office Action and this Amendment. Further, Mr. Scott is listed under our Firm's Customer Number with the United States Patent and Trademark Office, namely, Customer Number 30114, and thus may be deemed a proper representative of Applicants.

Respectfully submitted,
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